

§ 694.6

fiscal agent (in the case of a Partnership) or a State agency (in the case of a State) must—

(1) Control the funds used to provide services under GEAR UP to those students;

(2) Hold title to materials, equipment, and property purchased with GEAR UP funds for GEAR UP program uses and purposes related to those students; and

(3) Administer those GEAR UP funds and property.

(Authority: 20 U.S.C. 1070a-21 to 1070a-28)

§ 694.6 Who may provide GEAR UP services to students attending private schools?

(a) GEAR UP services to students attending private schools must be provided—

(1) By employees of a public agency; or

(2) Through contract by the public agency with an individual, association, agency, or organization.

(b) In providing GEAR UP services to students attending private schools, the employee, individual, association, agency, or organization must be independent of the private school that the students attend, and of any religious organization affiliated with the school, and that employment or contract must be under the control and supervision of the public agency.

(c) Federal funds used to provide GEAR UP services to students attending private schools may not be commingled with non-Federal funds.

(Authority: 1070a-21 to 1070a-28)

§ 694.7 What are the matching requirements for a GEAR UP Partnership?

(a) *In general.* A Partnership must—

(1) State in its application the percentage of the cost of the GEAR UP project the Partnership will provide for each year from non-Federal funds, subject to the requirements in paragraph (b) of this section; and

(2) Comply with the matching percentage stated in its application for each year of the project period.

(b) *Matching requirements.* (1) Except as provided in paragraph (b)(2) of this section, the non-Federal share of the cost of the GEAR UP project must be

34 CFR Ch. VI (7-1-09 Edition)

not less than 50 percent of the total cost over the project period.

(2) A Partnership that has three or fewer institutions of higher education as members may provide less than 50 percent, but not less than 30 percent, of the total cost over the project period if it includes—

(i) A fiscal agent that is eligible to receive funds under Title V, or Part B of Title III, or section 316 or 317 of the HEA, or a local educational agency;

(ii) Only participating schools with a 7th grade in which at least 75 percent of the students are eligible for free or reduced-price lunch under the National School Lunch Act; and

(iii) Only local educational agencies in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the National School Lunch Act.

(3) The non-Federal share of the cost of a GEAR UP project may be provided in cash or in-kind.

(Authority: 20 U.S.C. 1070a-23)

§ 694.8 What are the requirements that a Partnership must meet in designating a fiscal agent for its project under this program?

Although any member of a Partnership may organize the project, a Partnership must designate as the fiscal agent for its project under GEAR UP—

(a) A local educational agency; or

(b) An institution of higher education that is not pervasively sectarian.

(Authority: 20 U.S.C. 1070a-22)

§ 694.9 What is the maximum indirect cost rate for an agency of a State or local government?

Notwithstanding 34 CFR 75.560-75.562 and 34 CFR 80.22, the maximum indirect cost rate that an agency of a State or local government receiving funds under GEAR UP may use to charge indirect costs to these funds is the lesser of—

(a) The rate established by the negotiated indirect cost agreement; or

(b) Eight percent of a modified total direct cost base.

(Authority: 20 U.S.C. 1070a-21 to 1070a-28)